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8 Attorneys for Plaintiff

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 OAKLAND DIVISION

13 UNITED STATES OF AMERICA,) No. CR 11-00206 SBA (LB)

14 Plaintiff,)

15 v.)

16 FRANCISCO JAVIER CHAVEZ-GOMEZ,)

17 Defendant.)

18 _____) ~~PROPOSED~~ ORDER DETAINING
DEFENDANT PENDING TRIAL

19 I. DETENTION ORDER

20 Defendant Francisco Javier Chavez-Gomez is charged in a one-count indictment with
21 being a Deported Alien Found in the United States, in violation of 8 U.S.C. §§ 1326(a) and (b).

22 On April 6, 2011, the United States moved for the defendant's detention pursuant to 18 U.S.C. §
23 3142(f)(2)(A) (because there is a serious risk defendant will flee), and subsequently asked for a
24 detention hearing pursuant to 18 U.S.C. § 3142(f). Following a hearing on April 8, 2011, under
25 18 U.S.C. § 3142(f), and considering the parties' proffer and the factors set forth in section
26 3142(g), the Court finds that no condition or combination of conditions in section 3142(c) will
27 reasonably assure the defendant's appearance in this case. *See* 18 U.S.C. §§ 3142(e) and (f);
28 *United States v. Motamedi*, 767 F.2d 1403, 1406 (9th Cir. 1985).

1 Specifically, the Court notes the defendant's criminal history, as documented in the
2 Pretrial Services report, his alleged immigration status, and the fact that the defendant is subject
3 to an Immigration and Customs Enforcement detainer hold. The Court, therefore, orders that the
4 defendant be detained pending trial.

5 The defendant did not request a full bail study at this time, such as an interview by
6 Pretrial Services, but reserved his right to present information at a future bail hearing should his
7 circumstances change. *See* 18 U.S.C. § 3142(f) (a defendant has the right at a section 3142(f)
8 hearing to, with the assistance of counsel, testify, present witnesses, cross-examine adverse
9 witnesses, and present information by proffer or otherwise).

10 II. CONCLUSION

11 The Court detains the defendant as a serious flight risk and because no condition, or
12 combination of conditions, could assure the defendant's appearance in this case. Because the
13 defendant waived his right to present information under 18 U.S.C. § 3142(f) without prejudice to
14 his raising any relevant information at a later hearing, the Court orders that the hearing may be
15 reopened at the defendant's request at a future time.

16 The Court orders that the defendant be committed to the custody of the Attorney General
17 or a designated representative for confinement in a corrections facility separate, to the extent
18 practicable, from persons awaiting or serving sentences or held in custody pending appeal. *See*
19 18 U.S.C. § 3142(i)(2). The defendant must be afforded a reasonable opportunity to consult
20 privately with counsel. *See id.* § 3142(i)(3). On order of a court of the United States or on
21 request of an attorney for the United States, the person in charge of the corrections facility must
22 deliver the defendant to the United States Marshal for a court appearance. *See id.* § 3142(i)(4).

23 IT IS SO ORDERED.

24
25 DATED: April 11, 2011



26 LAUREL BEELER
United States Magistrate Judge